

AMENDED IN ASSEMBLY MARCH 22, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1352

Introduced by Assembly Members Logue and Achadjian
(Principal coauthor: Senator Wyland)

February 18, 2011

An act to add Section 6593.7 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1352, as amended, Logue. State Board of Equalization: administration: sales and use taxes: interest.

The Sales and Use Tax Law requires the payment of interest at a specified rate on a failure to timely pay taxes, specified prepayments, and amounts collected as tax under that law, from the date on which those amounts became due and payable to the state until the date of payment. That law authorizes the State Board of Equalization, in its discretion, to relieve all or any part of interest imposed under specified circumstances.

This bill would allow the members of the board, meeting as a public body, to relieve all or any part of the interest imposed, *not to exceed a specified amount in a 12-month period*, if the board finds, in its discretion, that a person's failure to make a timely payment, as defined, was due to extraordinary circumstances, *as defined*, and that it is inequitable to compute interest in accordance with existing law, and if the person, among other things, pays the amount due on which the interest is imposed and files with the board a statement under penalty of perjury setting forth specified information. By requiring persons to make these statements under penalty of perjury, this bill would expand

the circumstances under which a person may be convicted of the crime of perjury and thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6593.7 is added to the Revenue and
2 Taxation Code, to read:

3 6593.7. (a) If the board finds in its discretion that a person's
4 failure to make a timely payment was due to extraordinary
5 circumstances and that it is inequitable to compute interest in
6 accordance with this part, the board may relieve all or any part of
7 the interest imposed on that payment, *not to exceed the amount*
8 *specified in subdivision (b)*, if all of the following occur:

9 (1) The person was granted relief from all penalties that applied
10 to that payment.

11 (2) The person has paid the payment on which the interest was
12 imposed, or in the case of interest attributable to an unpaid liability
13 for which the person has filed a petition for redetermination, the
14 person pays the amount of the payment due on which the interest
15 was imposed within 30 days after service upon the person of the
16 final order or decision of the board on that petition for
17 redetermination.

18 (3) The person files a request for an oral hearing before the
19 board.

20 (4) The person files with the board a statement under penalty
21 of perjury setting forth the facts upon which he or she bases his or
22 her claim for relief and any other information which the board may
23 require.

24 (b) (1) *The aggregate relief granted to all persons pursuant to*
25 *subdivision (a) shall not exceed fifty thousand dollars (\$50,000)*
26 *in a 12-month period. The board shall not exceed this*
27 *fifty-thousand-dollar (\$50,000) limitation without further statutory*
28 *authorization.*

1 (2) *The limitation specified in paragraph (1) shall not apply to*
2 *the relief provided by the board pursuant to Section 6593.*

3 ~~(b)~~

4 (c) For purposes of this section:

5 (1) “Board” means the members of the State Board of
6 Equalization meeting as a public body.

7 ~~(2) “Extraordinary circumstances” means a highly unusual set~~
8 ~~of facts, which are not commonly associated with a person’s failure~~
9 ~~to make a timely payment.~~

10 (2) *“Extraordinary circumstances” means any of the following:*

11 (A) *The occurrence of a death or medical incapacity of the*
12 *person or the person’s next of kin that caused the person’s failure*
13 *to make a timely payment.*

14 (B) *The occurrence of an emergency, as defined in Section 8558*
15 *of the Government Code, that caused the person’s failure to make*
16 *a timely payment.*

17 (C) *Criminal misconduct by a person, other than the person*
18 *that failed to make a timely payment, that caused the person’s*
19 *failure to make a timely payment.*

20 (3) Payment includes any of the following:

21 (A) A payment of tax.

22 (B) A prepayment of tax on which interest is imposed under
23 this part.

24 (C) A payment of an amount of tax required to be collected and
25 paid to the state.

26 ~~(e)~~

27 (d) Any relief granted under this section may be rescinded, and
28 all interest liabilities may be reestablished, without regard to any
29 statute of limitations that otherwise may be applicable, if the person
30 fails to comply with paragraph (2) of subdivision (a).

31 SEC. 2. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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